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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 716

JAMES J. CLAYTON,

Petitioner,

vs

THE STATE OF ALABAMA

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ALABAMA AND BRIEF IN SUPPORT THEREOF.

JOHN C. WALTERS,
Troy, Alabama,
Counsel for Petitioner.

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Sections of the U. S. Constitution cited:
14 Amendment, Section 1; "Nor shall any State deprive any person of life, liberty, or property, without due process of law"

Opinions of the Courts Below

Clayton v. *State*, 4th Division 836, April 17th, 1935
Clayton v. *State*, 4th Division 836, May 15, 1945

(Above decision by Court of Appeals of Alabama and not reported in Reporters, still in manuscript.)
Ex Parte James J. Clayton, 4th Division 376, June 14th, 1945
Ex Parte James J. Clayton, 4th Division 376, October 11, 1945

(Above decision in Supreme Court of Alabama, and not reported in Reporters; still in manuscript.)
(No opinion was rendered on October 11th, 1945, rehearing denied without opinion.)

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OCTOBER TERM, 1945

No. 716

JAMES J. CLAYTON,

Petitioner,

vs.

THE STATE OF ALABAMA

APPLICATION FOR CERTIORARI TO THE SUPREME COURT OF ALABAMA

To the Honorable Supreme Court of the United States:

Your petitioner, James J. Clayton, would respectfully show unto the court the following:

1. That he is a citizen of the United States of America and his residence is within the State of Alabama.

Your petitioner would further show that he was convicted in the Circuit Court of Dale County, Alabama, on August 23rd, 1943, of the crime of arson, and duly sentenced to the penitentiary of Alabama. Your petitioner duly appealed said cause to the Court of Appeals of Alabama and said judgment was affirmed on April 17th, 1945; your petitioner filed an application for rehearing in said Court of Appeals of Alabama on April 24th, 1945, and the same was

denied on May 15th, 1945, by said court; your petitioner filed an application for writ of certiorari with the Supreme Court of Alabama for certiorari to review the said judgment of the Court of Appeals of Alabama, the same having been filed May 29th, 1945, and denied by the said Supreme Court of Alabama on June 14th, 1945; application for rehearing was filed in the Supreme Court of Alabama, on June 27th, 1945, and finally denied October 11th, 1945. Your petitioner has, therefore, exhausted all remedies in the State Courts of Alabama, and the decision by the Supreme Court of Alabama on October 11th, 1945, was a final decision by the highest court in the State of Alabama.

Your petitioner was convicted of burning an automobile belonging to a Mr. Pratt, a white man. Your petitioner was employed by Pratt as a shoe repair man. The State insisted that the automobile was burned for insurance, but, as a precaution, there was a general arson count in the indictment, together with an arson for insurance count. The State utterly failed to prove that there was any insurance. Mr. Pratt, the white man, who was indicted at the same time, has never been tried. Your petitioner insists that his conviction could have never been obtained except by the confessions shown in this record. Your petitioner testified, as shown on pages 20 through 26 of the transcript, that his confessions were obtained by beatings, threats, and prolonged examination. The State's witnesses, in part, substantiated that the confessions had been obtained by beatings and threats.

Zack Norris, a State Highway Patrolman, as shown on page 14 of the transcrip, testified, "Mr. Wilkinson, a deputy sheriff, did not whip the negro, but slapped the negro after he practically made the statement • • • he was slapped before he confessed the statement." As shown on page 15 of the transcript, Norris further testified that the

interrogation took place from, "that morning" until "late afternoon". His further testimony on page 15 of the transcript corroborates that your petitioner was beaten and slapped.

B. F. Craven, another witness for the State, as shown on pages 18 and 19 of the transcript, in part, admits that your petitioner was whipped.

Your petitioner testified on page 21 of the transcript that he was beaten to such an extent that blood ran all over his shirt. On page 21 of the transcript, it is shown that the sheriff answered, at the time of the trial, that the shirt had been cleaned up and was not available. Your petitioner would respectfully show that the confessions shown throughout this transcript were obtained by force, threats, beatings, and a prolonged and unusual examination.

2. Your petitioner would respectfully show unto the court that this Honorable Court has jurisdiction of this cause under Section 1, Amendment 14, to the Constitution of the United States, wherein your petitioner is guaranteed that, "Nor shall any State deprive any person of life, liberty, or property, without due process of law." Your petitioner would respectfully show that the confessions in this case, and the conviction which resulted, were in flagrant violation of his rights and privileges as a citizen of the United States under said 14th Amendment.

WHEREFORE, your petitioner would respectfully pray unto this Honorable Court that this Court take jurisdiction of this cause, under the terms of the 14th Amendment, as hereinabove stated, and that said judgment of the Supreme Court of Alabama, or judgment or said State Courts, as herein shown, be set aside, and reversed and the cause remanded for a new trial; your petitioner further prays that if he is mistaken in the relief for which he asks herein

that he may be granted such other and additional relief as he may be entitled under the premises; your petitioner would further pray that until the final determination of this cause by this Honorable Court that this Honorable Court, or Justice to whom this cause is assigned, issue a stay order to the Supreme Court of Alabama, staying the judgment in this cause and the operation thereof, until this cause be finally determined by the Honorable Supreme Court of the United States.

Your petitioner submits himself to this Honorable Court's jurisdiction for such relief as he may be entitled under the premises.

Submitted this 4th day of January, 1946.

JOHN C. WALTERS,
Counsel for Petitioner.